

Eugene Agina A#29 296 454
Suffolk County Jail
#0501897, 8-4
@0 Bradston St
Boston, Ma 02118

U.S. Dept of Homeland Security
~~Bureau of Immigration and Customs Enforcements~~
JFK Federal Building
Government Center
Boston Ma 02203

Dear Mr. Bruce Chadbourne,

I am writing to acknowledge the receipt of your letter of June 29, 2005 threatening an extension of my detention for failure to cooperate with my removal, under 8 U.S.C. §§ 1231 (a) (1)(c).

However, your letter has failed to acknowledge the fact that truthfull statement by an alien can not later be construed as a failure to cooperate with his removal. Nor has your letter followed the law, your rules and regulations which states, 8 CFR 241.4 (g)(1)(ii) the Immigration and Naturalization service must inform and "serve notice" to an alien of his failure to comply with regulations requiring his assistance and cooperation, and it must do this before the expiration of the removal period. 8 CFR 241.4 (g)(1)(ii).

Secondly, the removal period, statutorily allowed to effectuate removal, and this 90 day removal period typically begins when the removal order becomes administratively final. 8 U.S.C.S § 1231 (a)(1)(a), (B)(i). Therefore, the removal period in this case has long expired since July 29, 2004.

As you are well aware that this regulation under 8 C.F.R. § 241.4 (g)(1)(ii) was designed by the congress to prevent a situation like this, where an alien will be

threatened with an indefinite detention just because the agency has failed in it's effort to secure an alien's travel document.

Therefore, I believe ~~that~~ any threat of an indefinite detention in this matter will not only be contrary to this agency's rules and regulations, but also the law. See Zadvydas vs Davis, 533 US S 678, 150 L.Ed.2d 653, 121 S.Ct. 2491 (2001).

I would humbly beseech you to release me on a supervised release, and thank you very much for your attention in this matter.

Respectfully submitted,

Eugen Aguirre

Jun-29-05 02:30pm From-



U.S. Department of Homeland Security
Bureau of Immigration & Customs Enforcement
Detention and Removal Operations
New England Field Division

JFK Federal Building
Government Center
Boston, MA 02203

06-29-2005

AGINA, Eugene A29296454
Suffolk County Hof C

I ACKNOWLEDGE RECEIPT OF
THIS NOTICE *Eugene Agina*

(DATE)

JUN 29 2005

Notice of Failure to Comply Pursuant to 8 CFR 241.4(g)

This letter is to inform you that your custody status has been reviewed and it has been determined that you will not be released from the custody of the Bureau of Immigration and Customs Enforcement (Bureau) at this time. This decision has been made based on a review of your file and/or your personal interview and consideration of any information you submitted to the Bureau's reviewing officials.

On 04-29-2004, you were advised, via form I-229(a) and Instruction Sheet to Alien, of specific requirements to complete and were given 30 days to comply with your obligation to assist in obtaining a travel document. The burden to obtain a travel document for your removal does not solely rest with the Service. Pursuant to Section 241(a)(1)(C) of the Immigration and Nationality Act (INA), you are required to make timely and good faith efforts to obtain travel or other documents necessary for your removal from the United States. If you fail to make these efforts, Section 241(a)(1)(C) allows for the extension of the removal period. On several occasions you have informed the Nigerian Consulate that you have pending litigation when you have not. You have informed the Nigerian consulate that you are unable to travel due to a medical condition. You were medically cleared for travel. As you refused to cooperate and be honest with your consulate, you have failed to comply with your obligation and are acting to prevent your removal from the United States. The removal period is therefore extended in your case.

As you are still within the removal period, you are to remain in Bureau custody until you demonstrate that you are making reasonable efforts to comply with the order of removal, and that you are cooperating with the Bureau's efforts to remove you.

You are also advised that continued willful failure or refusal on your part to make timely application in good faith for travel or other documents necessary for your departure, or any conspiracy or actions to prevent your removal or obstruct the issuance of a travel document, will subject you to criminal prosecution under 8 USC Section 1253(a).

[Signature]
Signature and Title of Deciding Official

Bruce E. Chadbourne
Interim Field Office Director

06-29-2005

Date

6/29/05